

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

JANET LUNN, Plaintiff/Appellant,	)	No. ED92395
	)	
v.	)	
	)	
SCOTT ANDERSON, M.D., HEATHER WHITE,	)	
M.D. DIGESTIVE DISEASE SPECIALISTS,	)	Appeal from the Circuit Court
ESSE HEALTH, and SSM HEALTHCARE d/b/a	)	of St. Louis County
DEPAUL HEALTH CENTER ,	)	
Defendants/Respondents.	)	Filed: December 8, 2009

Janet Lunn (Plaintiff) appeals from trial court's entry of judgment, following a jury verdict, in favor of Defendants Scott Anderson, M.D., Heather White, M.D., and Digestive Disease Specialists, Inc., in Plaintiff's wrongful death medical malpractice action. On appeal, Plaintiff asserts the trial court erred: 1) in granting summary judgment in favor of defendant SSM Healthcare d/b/a DePaul Health Center (DePaul) prior to trial; 2) in denying Plaintiff leave to file a first amended petition claiming negligence based upon the use of sequential compression devices; and 3) allowing the jury to review certain evidence during deliberation. We reverse and remand the trial court's entry of summary judgment in favor of DePaul, but affirm the trial court's judgment in all other respects.

REVERSED and REMANDED IN PART, AFFIRMED IN PART.

Division Four holds: 1) The trial court erred in granting DePaul's Motion for Summary Judgment because there existed genuine issues of material fact regarding whether Dr. White consciously intended to discontinue Decedent's anticoagulant (Lovenox) following surgery, and correspondingly, whether prompting by DePaul's nurses would have caused Dr. White to restart Lovenox; 2) the trial court did not err or abuse its discretion in denying Plaintiff leave to amend the Petition to include as an allegation against DePaul "Defendants failed to properly use the sequential compression devices on Decedent's legs resulting in bilateral deep venous thrombus formation which required the administration of full dose IV Heparin and Coumadin" because being forced to defend against this new factual allegation within three weeks of trial would have caused injustice to DePaul; and 3) the trial court did not err and properly exercised its discretion with regard to a jury request for a properly admitted exhibit that was displayed to the jury.

Opinion by: Kurt S. Odenwald, P.J. Roy L. Richter, J., and George W. Draper III, J., Concur.

Attorney for Appellant: Leonard P. Cervantes

Attorney for Respondents-Scott Anderson, M.D. and Esse Health: J. Thaddeus Eckenrode

Attorney for Respondents-Heather, White M.D. and Digestive Disease Specialists: David P. Ellington

Attorneys for Respondent-SSM Health Care d/b/a DePaul Health Care: Rodney M.. Sharp and  
Natalie J. Kussart

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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